

Rec'd  
12/1/10  
Odessa



607 Fourteenth Street N.W.  
Washington, D.C. 20005-2011  
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December 1, 2010

Odessa Hopkins  
Office of Electricity Delivery &  
Energy Reliability  
OE-20, Room 6H-034  
U.S. Department of Energy  
1000 Independence Ave., S.W.  
Washington, DC 20585

**Re: Application of MAG Energy Solutions, Inc. for Renewal of Authority to  
Transmit Electric Energy to Canada**

Dear Ms. Hopkins:

Pursuant to 10 C.F.R. § 205.300, et seq. of the regulations of the Department of Energy, enclosed for filing on behalf of MAG Energy Solutions, Inc. ("MAG E.S.") is an original and 15 copies of an Application for Renewal of Authority to Transmit Electric Energy to Canada. Additionally, please find enclosed a check for the cost of the renewal application in the amount of \$500 payable to the Treasurer to the United States.

Please date-stamp and return with our messenger the two (2) additional copies of the renewal application enclosed. Should you have any questions, please contact the undersigned.

Respectfully submitted,

Carol A. Smoots, Esq.  
Nidhi J. Thakar, Esq.  
Perkins Coie LLP  
607 14th Street NW  
Suite 800  
Washington, DC 20005  
Phone: (202) 434-1601  
Fax: (202) 654-9146  
Email: csmoots@perkinscoie.com  
nthakar@perkinscoie.com

**Attorneys for MAG Energy Solutions, Inc.**

Enclosures

**UNITED STATES OF AMERICA  
BEFORE THE  
DEPARTMENT OF ENERGY  
OFFICE OF FOSSIL ENERGY**

**MAG ENERGY SOLUTIONS, INC.        )**

**DOCKET NO. EA-306 — A**

**APPLICATION OF MAG ENERGY SOLUTIONS, INC.  
FOR RENEWAL OF AUTHORITY  
TO TRANSMIT ELECTRIC ENERGY TO CANADA**

Pursuant to section 202(e) of the Federal Power Act ("FPA"), 16 U.S.C. § 824a(e) and 10 C.F.R. § 205.300, et seq., MAG Energy Solutions, Inc. ("MAG E.S.") hereby submits this application for a five-year extension of its blanket authorization to export electricity from the United States to Canada ("renewal application"). The Department of Energy ("DOE") previously granted MAG E.S. authorization to export electric energy as a power marketer on April 6, 2006 in Order No. EA-306 ("2006 Order"). MAG E.S. requests that this renewal application be made effective no later than April 6, 2011, the date on which its current authorization to export electricity from the United States to Canada expires, to prevent any lapse in authority.

**I.       DESCRIPTION OF APPLICANT**

MAG E.S. is an independent Canadian corporation with its principal place of business in Montreal, Quebec. MAG E.S. is engaged in the marketing of electric power at wholesale, as well as the physical and financial trading of other energy products. MAG E.S. does not own any electric generation or transmission facilities, nor is it affiliated with any entity that does. MAG E.S. does not hold a franchise or service territory for the transmission, distribution or sale of electric power. The U.S. Federal Energy Regulatory Commission ("FERC") authorized MAG E.S. to engage in the wholesale sales of electric power and capacity at market-based rates under Docket No. ER04-839-000 and -001, issued on August 5, 2004. A copy of this order is attached as Exhibit G.

## II. COMMUNICATIONS

Communications regarding this application should be addressed to:

Martin Gauthier  
Director  
MAG Energy Solutions, Inc.  
1010 Sherbrooke Quest  
Suite 800  
Montreal, Quebec  
Canada H3A 2R7  
Phone: (514) 227-1654  
Fax: (514) 227-1656  
Email: mgauthier@magenergysolutions.com

Carol A. Smoots, Esq.  
Nidhi J. Thakar, Esq.  
Perkins Coie LLP  
607 14th Street, NW  
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Washington, DC 20005  
Phone: (202) 434-1601  
Fax: (202) 654-9146  
Email: csmoots@perkinscoie.com  
nthakar@perkinscoie.com

## III. JURISDICTION

There is no Federal, State, or local government agency in the United States that has jurisdiction over the actions to be taken under the specific export authorization sought in this Application.

## IV. TECHNICAL DISCUSSION OF PROPOSED AUTHORIZATION

Section 202(e) of the Federal Power Act ("FPA") and the DOE's regulations provide that exports should be allowed unless the proposed export would impair the sufficiency of electric power supply within the United States or would tend to impede the coordinated use of the United States power supply network. 16 U.S.C. §824a(e). MAG E.S. seeks blanket authority to transmit electric power to Canada as a power marketer. MAG E.S. has no electric power supply system on which the proposed exports could have a reliability, fuel use or system stability impact. MAG E.S. also has no obligation to serve native load usually associated with a franchised service area, and, thus, the exports proposed by MAG E.S. will not impair its ability to meet current and prospective power supply obligations.

MAG E.S. will purchase power to be exported from a variety of sources such as power marketers, independent power producers, or U.S. electric utilities and federal power marketing entities as those terms are defined in Sections 3(22) and 3(19) of the FPA. By definition, such power is surplus to the system of the generator and, therefore, the electric power that MAG E.S. will export on either a firm or interruptible basis will not impair the sufficiency of the electric power supply within the U.S. See *Enron Power Marketing, Inc.* Order EA-102 (1996).

MAG E.S. will make all necessary commercial arrangements and will obtain any and all other regulatory approvals required in order to schedule and deliver and power



exports. All of the electricity exported by MAG E.S. will be transmitted pursuant to arrangements with utilities that own and operate existing transmission facilities and will be consistent with the export limitations and other terms and conditions contained in the existing Presidential Permits and electricity export authorizations associated with these transmission facilities as shown in Exhibit C. MAG E.S. will schedule its transactions with the appropriate balancing authority areas in compliance with the reliability criteria standards and guidelines established by the North American Electric Reliability Corporation ("NERC") and its member regional councils in effect at the time of export.

In previous orders granting export authorization to electric power marketers, DOE declined to rigidly apply the information filing requirements contained in its regulations and instead used a flexible approach which takes into consideration the unique nature of power marketers, the requirements of FERC Order No. 888 and previously authorized export limit of cross-border facilities. *See e.g. NorAm Energy Services, Inc.*, Order No. EA-105-CN (Aug. 16, 1996); *MidCon Power Services Corp.*, Order No. EA-114 (July 15, 1996); *USGen Power Services*, No. EA-112 (June 27, 1996); *CNG Power Services Corp.*, Order No. EA-110 (June 20, 1996); *North American Energy Conservation, Inc.*, Order No. EA-103 (May 30, 1996). These same considerations demonstrate that the exports proposed by MAG E.S. will not impair or tend to impede the sufficiency of electric supplies in the U.S. or the regional coordination of electric utility planning or operations.

Finally, MAG E.S. requests that DOE conclude that the authorization sought under this application qualifies for a categorical exclusion under the National Environmental Policy Act of 1969, and, thus, this application would not require the preparation of either an environmental impact statement or environmental assessment. DOE previously made this finding in its 2006 Order for MAG E.S., *see* 2006 Order at 5. Further, any power exports scheduled by MAG E.S. under the requested authorization would occur over existing international transmission lines pursuant to authority identical to that which was previously granted to the company in the 2006 Order.

## **V. PROPOSED PROCEDURES**

MAG E.S. proposes to export electricity through the existing transmission facilities at the border between Canada and the U.S. as described and identified in Exhibit C. Further, MAG E.S. intends to comply with the applicable requirements of FERC, the NERC, and the export limitations associated with each facility. MAG E.S. also commits to furnish quarterly reports to DOE within 30 days following each calendar quarter showing the gross amount of electricity delivered, the consideration received in return for each month of the previous quarter, and the maximum hourly rate of transmission across the U.S. border to Canada. MAG E.S. seeks a continuance of its blanket authorization for exports for a minimum period of five years, which may be extended upon further application to DOE.

## **VI. REQUIRED EXHIBITS**

The following information is provided pursuant to the required exhibits as set forth in DOE regulations 10 C.F.R. § 205.303.

- Exhibit A: There are not specific agreements at this time under which electricity is to be transmitted for export. Thus, no agreements have been included with this application. Not applicable.
- Exhibit B: A legal opinion of Carol A. Smoots, Esq. of Perkins Coie LLP, counsel to MAG E.S., is included.
- Exhibit C: List of transmission facilities to be used for any exports undertaken pursuant to the requested authorization is included.
- Exhibit D: Applicant's principal office is located outside of the U.S. Therefore, attached is a copy of irrevocable power of attorney for Carol A. Smoots, Esq. of Perkins Coie LLP, who resides in the U.S.
- Exhibit E: Not applicable.
- Exhibit F: Not applicable.
- Exhibit G: A copy of the Order issued by FERC granting MAG E.S. authorization to engage in the wholesale sales of electric power and capacity at market-based rates under Docket No. ER04-839-000 and -001, issued on August 5, 2004.

## **VII. CONCLUSION**

WHEREFORE, MAG respectfully requests that DOE grant this Application for continued blanket authorization to export power from the United States to Canada with such authorization to be effective as of the date of the expiration of MAG's current authorization, April 6, 2011.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Nidhi J. Thakar', written over a horizontal line.

Carol A. Smoots, Esq.

Nidhi J. Thakar, Esq.

Perkins Coie LLP

607 14th Street, NW

Suite 800

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Email: [csmoots@perkinscoie.com](mailto:csmoots@perkinscoie.com)

[nthakar@perkinscoie.com](mailto:nthakar@perkinscoie.com)

December 1, 2010

**EXHIBIT A**

**Not Applicable**

## **EXHIBIT B**

### **Legal Opinion of Counsel**





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December 1, 2010

U.S. Department of Energy  
Office of Fossil Energy  
1000 Independence Avenue, SW  
Washington, D.C. 20585-0340

**Re: Application of MAG Energy Solutions, Inc. for Authority to Transmit Electric Energy to Canada**

Dear Madam Secretary:

Pursuant to Sections Section 205.303(b) of the regulations of the Department of Energy, I hereby provide a legal opinion regarding the corporate powers of MAG Energy Solutions, Inc. ("MAG E.S.") to export electricity to Canada. I have examined the relevant corporate documents for MAG E.S., and based on my review of these documents, it is my opinion that the proposed importation and exportation of electricity is within the corporate powers of MAG E.S., subject to Section 202(e) of the Federal Power Act, 16 U.S.C. § 824a(e). Additionally, MAG E.S. confirms they have taken all necessary steps to comply with the applicable Federal and State laws in connection with the actions to be undertaken pursuant to this application.

Please contact the undersigned should you have any questions regarding this opinion.

Sincerely,

Carol A. Smoots, Esq.  
Perkins Coie LLP  
607 Fourteenth Street, N.W.  
Suite 800  
Washington, D.C. 20005  
csmoots@perkinscoie.com  
Phone: (202) 434-1633  
Fax: (202) 654-9133  
**Attorney for MAG Energy Solutions, Inc.**

## **EXHIBIT C**

### **List of Transmission Facilities to be Used for Any Exports**

### Authorized Export Points

Owner	Location	Voltage	Presidential Permit No.
Basin Electric	Tioga, ND	230 kV	PP-64
Boise Cascade	International Falls, MN	115 kV	PP-96
	International Falls, MN	6.6 kV	PP-39
Bonneville Power Administration	Blaine, WA	2-500 kV	PP-10
	Nelway, WA	230-kV	PP-36
	Nelway, WA	230-kV	PP-46
Eastern Maine Electric Coop.	Calais, ME	69-kV	PP-32
International Transmission Co.	St. Clair, MI	345-kV	PP-230
	Marysville, MI	230-kV	PP-230
	Detroit, MI	230-kV	PP-230
	St. Clair, MI	345-kV	PP-230
Joint Owners of Highgate Project	Franklin, VT	120-kV	PP-82
Long Sault, Inc.	Massena, NY	2-115-kV	PP-24
Maine Electric Power Co.	Houlton, ME	345-kV	PP-43
	Limestone, ME	69-kV	PP-12
Maine Public Service Co.	Fort Fairfield, ME	69-kV	PP-12
	Aroostook County, ME	138-kV	PP-29
	Madawaska, ME	2-69-kV	PP-29
Minnesota Power, Inc.	International Falls, MN	115-kV	PP-78
Minnkota Power Coop, Inc.	Roseau County, MN	230-kV	PP-61
New York Power Authority	Ft. Covington, NY	765-kV	PP-56
	Massena, NY	2-230-kV	PP-25
	Niagara Falls, NY	2-345-kV	PP-74
	Devils Hole, NY	230-kV	PP-30
Niagara Mohawk Power Corp.	Devils Hole, NY	230-kV	PP-190
Northern States Power Co.	Red River, ND	230-kV	PP-45
	Roseau County, MN	500-kV	PP-63
Northern States/Xcel	Rugby, ND	230-kV	PP-231
Vermont Electric Coop. Co.	Derby Line, VT	120-kV	PP-66
Vermont Electric Transmission Co.	Norton, VA	± 450-kV DC	PP-76

**EXHIBIT D**

**Power of Attorney**




**IRREVOCABLE LIMITED  
POWER OF ATTORNEY**

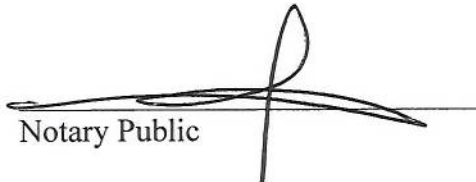
This IRREVOCABLE LIMITED POWER OF ATTORNEY is made on November \_\_\_\_, 2010 by MAG Energy Solutions Inc. (the "Principal"), a corporation organized and existing under the Canadian Business Corporations Act, with its headquarters at 1010 Sherbrooke Quest, Suite 800, Montreal, Quebec, Canada H3A 2R7.

1. Appointment. The Principal hereby appoints Carol A. Smoots, Esq. with principle place of business at Perkins Coie LLP, 607 Fourteenth Street, NW, Suite 800, Washington, DC 20005, as the Principal's true and lawful agent for the limited purpose set forth below.
2. Scope of Authority. Pursuant to 10 C.F.R. § 205.303(d), Attorney Smoots shall have the limited power and authority to serve as the agent for the Principal regarding all matters related to the Principal's authorization to export electricity to Canada as issued by the U.S. Department of Energy ("DOE"). This appointment will remain in effect for the duration of the authorization, a five-year period, and will terminate simultaneously with the expiration of the authorization granted by DOE.
3. Irrevocability. This Power of Attorney is irrevocable by the Principal.

IN WITNESS HEREOF, the Principal has caused this Power of Attorney to be duly executed on this \_\_\_\_ day of November, 2010.

By:   
Martin Gauthier  
MAG Energy Solutions, Inc., President

SUBSCRIBED AND SWORN BEFORE ME, this 24 day of November, 2010.

  
Notary Public



My Commission expires: 2013

**EXHIBIT E**

**Not Applicable**

**EXHIBIT F**

**Not Applicable**

**EXHIBIT G**

**Letter Order Issued by FERC  
Granting MAG E.S. Market-Based Rate Authorization  
Docket No. ER04-839-000, -001  
August 5, 2004**



FEDERAL ENERGY REGULATORY COMMISSION  
Washington, D.C. 20426

In Reply Refer To:  
MAG Energy Solutions, Inc.  
Docket Nos. ER04-839-000 and  
ER04-839-001  
August 5, 2004

Martin Gauthier  
MAG Energy Solutions, Inc.  
7290 Pelletier  
Brossard, Québec  
Canada, J4W 2R1

Reference: Market-Based Rate Authorization

Ladies and Gentlemen:

Pursuant to the authority delegated to the Director, Division of Tariffs and Market Development - South, under 18 C.F.R. § 375.307, the market-based rate application in the referenced docket, along with the proposed designation, is accepted for filing, effective August 25, 2004, as requested.<sup>1</sup>

On May 13, 2004, as amended July 6, 2004, you filed on behalf of MAG Energy Solutions, Inc. (MAG E.S.), an application for market-based rate authority, with an accompanying tariff. The proposed market-based rate tariff provides for the sale of capacity and energy at market-based rates. MAG E.S. requests waivers commonly given to similar market-based rate applicants.

MAG E.S. is an independent Canadian corporation with its principal place of business in Montréal, Québec. MAG E.S. intends to market electricity to wholesale customers as a power marketer. MAG E.S. is neither a subsidiary of any other company nor is it organized with any other affiliates.

You state that MAG E.S. does not currently own, operate or control any generating or transmission facilities and therefore cannot have market power. You further state that they are unable to erect barriers to entry because they do not own or control building sites for energy-related assets, interstate natural gas pipelines, engineering and construction firms, or gas distribution facilities. You also assert that

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<sup>1</sup> Rate Schedule FERC No. 1, Original Sheet Nos. 1-3.

Docket Nos. ER04-839-000 and -2-  
ER04-839-001

MAG E.S. is not affiliated with a public utility with a franchised electric service territory, so no affiliate abuse concerns exist.

### **Market-Based Rate Authorization**

Your submittal satisfies the Commission's requirements for market-based rates regarding generation and transmission market power, other barriers to entry and affiliate abuse.

You intend to act as a power marketer and are not requesting approval to reassign transmission capacity. You are hereby informed that you are authorized to reassign transmission capacity pursuant to the Commission's order in *Enron Power Marketing, Inc.*, 81 FERC ¶ 61,277 (1997).

### **Waivers**

You request waiver of Part 41, Part 101, and Part 141 of the Commission's Regulations concerning accounting and reporting requirements. This waiver is granted with the exception of 18 CFR §§ 141.14 and 141.15.<sup>2</sup>

Your request for waiver of Part 45 of the Commission's Regulations regarding interlocking directorates is granted with respect to any person now holding or who may hold an otherwise proscribed interlocking directorate involving the applicant. Such personnel shall file a sworn application providing his or her full name and business address and all jurisdictional interlocks, identifying the affected companies and the positions held by that person.<sup>3</sup> The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued Commission approval of issuances of securities or assumptions of liabilities or by the continued holding of any affected interlocks.

You request waiver of Part 34 of the Commission's Regulation regarding securities and assumption of liabilities. Since these requirements are statutory in nature they cannot be waived. However, a separate notice will be published in the Federal Register following this letter order establishing a period during which protests may be

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<sup>2</sup> Citizens Energy Corp., 35 FERC ¶ 61,198 (1986); Citizens Power and Light Corp., 48 FERC ¶ 61,210 (1989) (*Citizens Power*); Enron Power Marketing, Inc., 65 FERC ¶ 61,305 (1993), *order on reh'g*, 66 FERC ¶ 61,244 (1994) (*Enron*).

<sup>3</sup> *Enron*, 65 FERC ¶ 61,305.



Docket Nos. ER04-839-000 and -3-  
ER04-839-001

filed. Absent a request to be heard in opposition within the set comment period, you are authorized to issue securities and assume obligations or liabilities.<sup>4</sup>

### **Reporting Requirements**

You are required to file electronically with the Commission an Electric Quarterly Report<sup>5</sup> containing a summary of the contractual terms and conditions, which are described in attachments B and C of Order No. 2001, in every effective service agreement and detailed transaction information for effective short-term (less than one year) and long-term (one year or greater) power sales during the most recent calendar quarter. Each Electric Quarterly Report must be filed no later than the last day of the month following each calendar quarter.

If you fail to file an Electric Quarterly Report (without an appropriate request for extension), or fail to report an agreement in a report, you may forfeit your market-based rate authority requiring filing of a new application for market-based rate authority if you wish to resume making sales at market-based rates.

You are also required to file an updated market analysis within three years of the date of this order, and every three years thereafter. The Commission also reserves the right to require such an analysis at any intervening time.

You are further required to inform the Commission promptly of any change in status that would reflect a departure from the characteristics the Commission has relied upon in approving market-based pricing in a separate report filed under the docket in which you first received market-based rate authority. These include, but are not limited to: (a) ownership of generation or transmission facilities or inputs to electric power production other than fuel supplies; or (b) affiliation with any entity not disclosed in the applicant's filing and that owns generation or transmission facilities or inputs to electric power production, or that has a franchised service area. You may elect to report such changes in conjunction with your updated market analysis.

### **Procedural Matters**

Your filing was noticed on May 17, 2004, with comments, protests or interventions due on or before June 3, 2004, and on July 13, 2004, with comments, protests or interventions due on or before July 28, 2004. No protests or adverse

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<sup>4</sup> *Citizens Power*, 48 FERC ¶ 61,210; *Enron*, 65 FERC ¶ 61,305.

<sup>5</sup> The Electric Quarterly Report must be submitted to the Commission using the EQR Submission System Software, which may be downloaded from the Commission's website at <http://www.ferc.gov/Electric/eqr/eqr.htm>.

Docket Nos. ER04-839-000 and  
ER04-839-001

-4-

comments were filed. Notices of intervention and unopposed timely filed motions to intervene are granted pursuant to the operation of Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR ¶ 385.214). Any opposed or untimely filed motion to intervene is governed by the provisions of Rule 214.

This action does not constitute approval of any service, rate, charge, classification, or any rule, regulation, contract, or practice affecting such rate or service provided for in the filed documents; nor shall such action be deemed as recognition of any claimed contractual right or obligation affecting or relating to such service or rate; and such action is without prejudice to any findings or orders which have been or may hereafter be made by the Commission in any proceeding now pending or hereafter instituted by or against the applicant.

This order constitutes final agency action. Requests for rehearing by the Commission may be filed within 30 days of the date of issuance of this order, pursuant to 18 CFR § 385.713.

Sincerely,

Steve P. Rodgers, Director  
Division of Tariffs and Market  
Development – South



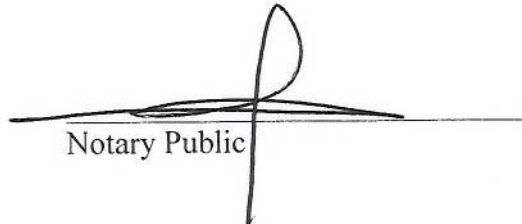
## VERIFICATION

I, Martin Gauthier, having knowledge of the matters set forth in the above application by MAG Energy Solutions, Inc. for Authorization to Transmit Electric Power to Canada, hereby verify that the contents of this application are true and correct to the best of my knowledge and belief.



Martin Gauthier  
President

SUBSCRIBED AND SWORN BEFORE ME, this 24 day of November, 2010.



Notary Public



My Commission expires: 2013

MAG ENERGY SOLUTIONS INC.  
1010, RUE SHERBROOKE OUEST, BUREAU 800  
MONTREAL (QUEBEC) H3A 2R7

0260

DATE 20101020  
A A A A M M J J

PAYEZ  
à l'ordre de

U.S. Treasury

500.<sup>00</sup> \$

five hundred

00 DOLLARS 100 FONDS U.S.  sécurité intégrée



BANQUE ROYALE DU CANADA  
SUCCURSALE PRINCIPALE  
1 PLACE VILLE-MARIE  
MONTREAL (QC) H3C 3B5

MAG ENERGY SOLUTIONS INC.



PAR

PAR

POUR

DOE Application

*Walter P. Haff*

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